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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/787,188	02/27/2004	Yoshiki Takata	4699-0103P	4585
2292	7590	06/21/2006	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH			CHOI, JACOB Y	
PO BOX 747			ART UNIT	
FALLS CHURCH, VA 22040-0747			PAPER NUMBER	
			2875	

DATE MAILED: 06/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/787,188

Applicant(s)

TAKATA, YOSHIKI

Examiner

Jacob Y. Choi

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14, 16-18 and 20-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14, 16-18 and 20-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/27/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 102

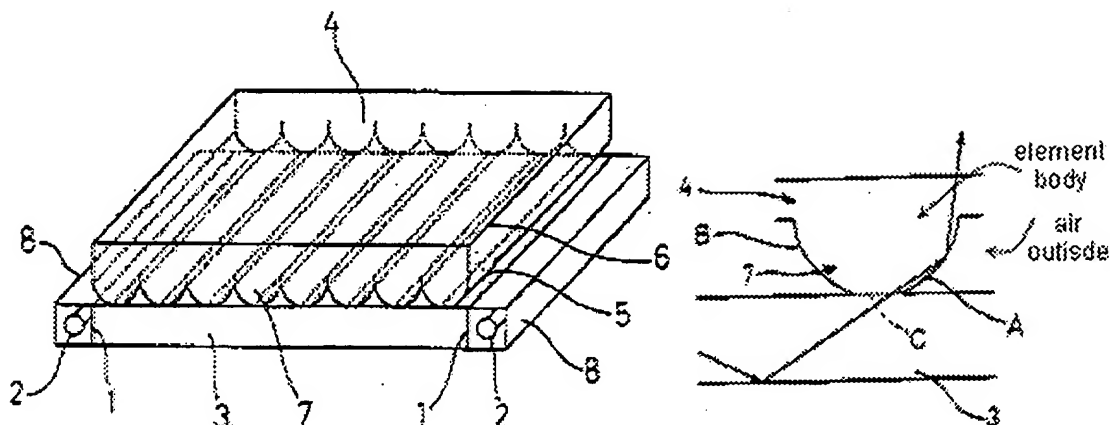
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims **1-14** are rejected under 35 U.S.C. 102(b) as being anticipated by Onishi et al. (US 2001/0053074).

Regarding claims 1 and 8, Onishi et al. discloses an element body (e.g., 4) has a generally plate shape constituted with a material having a larger electric permittivity than air outside the element body and, in the inside of the element body, a plurality of *closed* spaces (e.g., Figure 10) are disposed whose electric permittivity is smaller (e.g., air outside) than that of the material constituting the element body and whose surfaces opposite to a radiation surface are generally flat.



Note: claims in a pending application should be given their broadest reasonable interpretation (e.g., "closed space"). *In re Pearson*, 181 USPQ 641 (CCPA 1974).

The term "closed" is defined as having little or no space between elements or parts; tight and compact

In order to be given patentable weight, a functional recitation must be supported by recitation in the claim of sufficient structure to warrant the presence of the functional language. *In re Fuller*, 1929 C.D. 172; 388 O.G. 279.

Regarding claims 2 & 9, Onishi et al. discloses a plurality of *closed spaces* are disposed whose surfaces opposite to the radiation surface are generally parallel to the radiation surface (e.g., Figure 9).

Regarding claims 3 & 10, Onishi et al. discloses a plurality of *closed spaces* are adjacently disposed whose surfaces opposite to the radiation surface are generally parallel to each other (e.g., Figure 9).

Regarding claims 4 & 11, Onishi et al. discloses a first member having a radiation source (e.g., 2) disposed on a side thereof and a second member disposed on the radiation surface side are constituted to be in close adhesion (e.g., column 5, lines 15-30), and the closed spaces are formed between the first member and the second member.

Regarding claims 5 & 12, Onishi et al. discloses at least one member of the first member (e.g., 3) and the second member (e.g., 7) has recesses formed therein, and the recesses (e.g., A) are disposed to constitute the closed spaces by joining the first member and the second member.

Regarding claims 6 & 13, Onishi et al. discloses a total reflection restraining layer such as a scatter layer is disposed in the radiation surface (e.g., claims 28-30).

Regarding claims 7 & 14, Onishi et al. discloses the closed spaces are filled with solid layers having a smaller electric permittivity than the material constituting the element body.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims **16-18 and 20-22** are rejected under 35 U.S.C. 103(a) as being unpatentable over Onishi et al. (USPN 6,425,675).

Regarding claims 16-18 and 20-22, Onishi et al. discloses the structural limitations of the applicant's claimed invention, explained in above paragraphs.

Onishi et al. failed to disclose method of use of a particular structure.

It would have been obvious to one of ordinary skill in the art at the time of the invention to recite the use of disclosed structural limitations of Onishi et al. Also, It has

been held that to be entitled to weight in method claims, the recited structure limitations therein must affect the method in a manipulative sense, and not to amount to the mere claiming of a use of a particular structure. *Ex parte Pfeiffer*, 1962 C.D. 408 (1961).

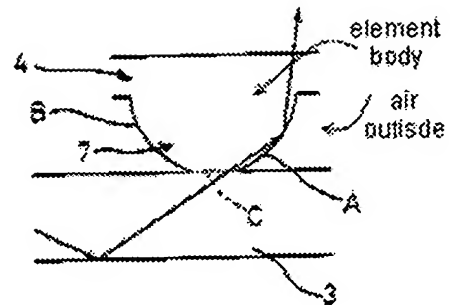
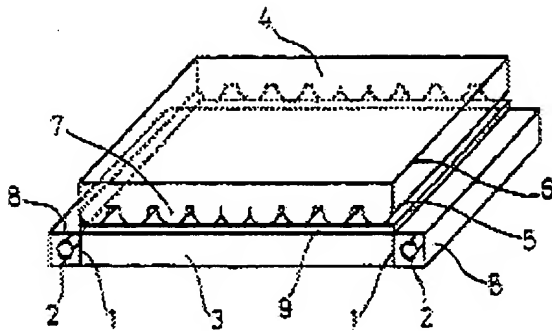
Response to Amendment

6. Examiner acknowledges that the applicant has amended claims 1, 8, 16-18 and newly added claims 20-22. Currently, claims 1-14, 16-18 and 20-22 are pending in the application.

Response to Arguments

7. Applicant's arguments filed March 20, 2006 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., *an element body having a plurality of closed spaced inside the element body ... etc.*) are clearly shown in the drawing figures Onishi et al. Things clearly shown in reference patent drawing qualify as prior art features, even though unexplained by the specification. *In re Mraz*, 173 USPQ 25 (CCPA 1972). In addition, claims in a pending application was given their broadest reasonable interpretation (e.g., "*closed space*"). *In re Pearson*, 181 USPQ 641 (CCPA 1974). The term "closed" is defined as having little or no space between elements or parts; tight and compact.



Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacob Y. Choi whose telephone number is (571) 272-2367. The examiner can normally be reached on Monday-Friday (10:00-7:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JC



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